

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

JERMAINE DONNELL BANKS,

Petitioner,

v.

CIVIL ACTION NO. 1:16-09822
CRIMINAL ACTION NO. 1:07-00157

UNITED STATES OF AMERICA,

Respondent.

MEMORANDUM OPINION AND ORDER

On May 26, 2017, this court denied Petitioner's Petition for Writ of Audita Querela. See Doc. Nos. 120-21. On June 30, 2017, Petitioner sought a Writ of Error under Rule 52(b) of the Federal Rules of Criminal Procedure. Rule 52(b) states: "A plain error that affects substantial rights may be considered even though it was not brought to the court's attention."

Petitioner argues that it was plain error for the court to have accepted his plea agreement since Petitioner supposedly did not understand that he was leaving himself open to the 192-month sentence he ended up receiving. See Doc. No. 123.

This is, at best, buyer's remorse on Petitioner's part. Since there is no credible evidence whatsoever that Petitioner was coerced or improperly induced to accept the plea agreement or that he misunderstood its terms, this court cannot now conclude that Petitioner did not knowingly, intelligently and

voluntarily enter his plea. See, e.g., North Carolina v. Alford, 400 U.S. 25, 37–38 (1970); Parker v. North Carolina, 397 U.S. 790, 797–98 (1970).

Consequently, Petitioner's Petition for Writ of Error is **DENIED**.

The Clerk is further directed to forward a copy of this Memorandum Opinion and Order to counsel of record and to Petitioner.

It is **SO ORDERED** this 12th day of September, 2017.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge